

ESTTA Tracking number: **ESTTA496379**

Filing date: **09/25/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Mehrdad F. Ghiam
Granted to Date of previous extension	09/26/2012
Address	P.O. Box 1291 Columbia, MO 65205 UNITED STATES
Attorney information	SCOTT T GRAY POLSTER LIEDER WOODRUFF & LUCCHESI LC 12412 POWERSCOURT DRIVE, SUITE 200 ST. LOUIS, MO 63131 UNITED STATES trademarks@polsterlieder.com, sgray@polsterlieder.com, mlucchesi@polsterlieder.com Phone:314-238-2400

### Applicant Information

Application No	85463689	Publication date	05/29/2012
Opposition Filing Date	09/25/2012	Opposition Period Ends	09/26/2012
Applicant	MEDHURST, David 124 Edgecliffe Place Burlington, Ontario, L7L3Z3 CANADA		

### Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Electronic controller to reduce power consumption
Class 040. All goods and services in the class are opposed, namely: Custom manufacture of electric equipment for power conditioning and power consumption reduction in industrial plants and in building environments, residential, commercial and institutional applications
Class 042. All goods and services in the class are opposed, namely: Designing of electric equipment for power conditioning and power consumption reduction in industrial plants, and in building environments, residential, commercial and institutional applications

### Grounds for Opposition

Other	Since a date prior to Applicant's filing date, Opposer, has continuously engaged in and used,
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	and is engaged in and using in commerce the following mark ELECTROFLOW in association with: electronic controllers and electrical devices to reduce power consumption; custom manufacture of electric equipment for power conditioning and power consumption reduction in industrial plants and in building environments, commercial and institutional applications; and designing of electric equipment for power conditioning and power consumption reduction in industrial plants, and in building environments, commercial and institutional applications
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Attachments	GHIM I751 Notice of Opposition.pdf ( 5 pages )(33953 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Scott T. Gray/
Name	SCOTT T GRAY
Date	09/25/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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<b>Mehrdad Fotoohighiam</b>	:
	:
<i>Opposer</i>	:
	: <b>Opposition No.</b>
<b>v.</b>	: <b>Application Serial</b>
	: <b>No. 85463689</b>
<b>David Medhurst</b>	:
	:
<i>Applicant</i>	:
-----X	

NOTICE OF OPPOSITION TO REGISTRATION OF MARK

NOW COMES Dr. Mehrdad Fotoohighiam, ("Dr. Mehrdad"), having a company doing business as Electenergy Technologies International Inc. with a business an address at P.O. Box 1291, Columbia, MO 65205, which believes that he will be damaged by the grant of registration to David Medhurst in application Serial No. 85463689, and hereby opposes same.

As grounds therefor, Dr. Mehrdad alleges as follows:

1. David Medhurst ("Applicant"), a resident of Canada, applied on November 3, 2011, under 15 U.S.C.A. sec. 1051(b) in International Classes 009, 040 and 042 for a mark "ELECTROFLOW TECHNOLOGIES INC" ("the Mark") for:

009: Electronic controller to reduce power consumption;

040: Custom manufacture of electric equipment for power conditioning and power consumption reduction in industrial plants and in building environments, residential, commercial and institutional applications; and

042: Designing of electric equipment for power conditioning and power consumption reduction in industrial plants, and in building environments, residential, commercial and institutional applications

("the Medhurst Application").

2. On May 29, 2012, the Medhurst Application was published for opposition.

3. On June 14, 2012, pursuant to 37 C.F.R. § 2.102, Dr. Mehrdad filed a Request for Extension of Time to oppose the Medhurst Application, through September 26, 2012.

4. Since a date prior to Applicant's filing date, Dr. Mehrdad has continuously engaged in and used, and is engaged in and using in commerce the following mark

ELECTROFLOW

in association with: electronic controllers and electrical devices to reduce power consumption; custom manufacture of electric equipment for power conditioning and power consumption reduction in industrial plants and in building environments, commercial and institutional applications; and designing of electric equipment for power conditioning and power consumption reduction in industrial plants, and in building environments, commercial and institutional applications.

5. Opposer Dr. Mehrdad has common law trademark rights to the ELECTROFLOW mark that predate the Medhurst application.

6. On May 23, 2012, Dr. Mehrdad filed an application for registration of the mark ELECTROFLOW, which was accorded Serial No. 85633354, in respect of "Energy saving and power conditioning equipment; and providing consulting and design services for energy saving and power conditioning equipment for using building environments" in International Class 009, based on use of the ELECTROFLOW mark in commerce since a time no later than January, 1982.

7. As a result of its prior and continuous use, advertisement and promotion of the ELECTROFLOW mark, and by virtue of the quality of the services rendered under the mark, Opposer Dr. Mehrdad has established goodwill and international reputation in connection with the mark, which would be jeopardized by the registration of the Applicant ELECTROFLOW TECHNOLOGIES INC.

8. Upon information and belief, Applicant's proposed goods and services would be offered and sold through the same channels of trade and to the same general class of consumers as the Opposer's goods and services.

9. Members of the relevant consuming public are likely to be confused, mistaken, or deceived as to the origin and sponsorship of the Applicant's goods and services marketed under the Applicant's proposed "ELECTROFLOW TECHNOLOGIES INC" mark, and be misled into believing that such goods and services are offered, produced by, sponsored by, emanate from, or in some way are associated with the Opposer Dr. Mehrdad, to the damage and detriment of Dr. Mehrdad and his business and the established reputation of Dr. Mehrdad and his company.

10. Opposer Dr. Mehrdad, upon information and belief, avers that he and his business will be damaged by the proposed use and registration by the Applicant of the

alleged “ELECTROFLOW TECHNOLOGIES INC” mark, as set forth in the Applicant’s Trademark Application Serial No. 85463689, in that the mark is confusingly similar to the Dr. Mehrdad’s ELECTROFLOW mark and common law rights, and is and/or will be used in connection with goods identical and/or related to the goods and/or services offered by the Opposer Dr. Mehrdad.

11. Dr. Mehrdad possesses superior rights in the ELECTROFLW mark, which superior rights inure to Dr. Mehrdad from its prior use of the ELECTROFLOW mark that is the subject of application Serial No. 85633354.

**WHEREFORE**, petitioner believes and alleges that it will be damaged by the registration of the aforereferenced Trademark Application Serial No. 85463689, and requests that said Application Serial No. 85463689 be rejected; that no registration be issued thereon to the Applicant Medhurst; and that this Opposition be sustained in favor of the Opposer Dr. Mehrdad.

The required filing fee for the Notice of Opposition is submitted herewith.

Respectfully submitted,

/Scott T. Gray/

/Nelson D. Nolte/

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Attorneys for Opposer  
Dr. Mehrdad Fotoohi Ghiam

CERTIFICATE OF SERVICE

It is hereby certified that this Notice of Opposition was served by overnight courier to David Medhurst, 124 Edgecliffe Place Burlington, Ontario Canada L7L3Z3 and to Mr. Medhurst's attorney, John A. Cullis, of Neal, Gerber and Eisenberg, Two North LaSalle Street, Suite 2200, Chicago IL, 60602-3801 on September 25, 2012.

/Scott T. Gray/

/Nelson D. Nolte/

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